

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:
SEN. BILL CUNNINGHAM

CO-CHAIR:
REP. KEITH WHEELER

EXECUTIVE DIRECTOR:
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SEN. JOHN CURRAN
SEN. KIMBERLY LIGHTFORD
SEN. TONY MUÑOZ
SEN. SUE REZIN
SEN. PAUL SCHIMPF
REP. TOM DEMMER
REP. MIKE HALPIN
REP. FRANCES HURLEY
REP. STEVEN REICK
REP. ANDRÉ THAPEDI

MINUTES

January 12, 2021

MEETING CALLED TO ORDER

The Joint Committee on Administrative Rules met on Tuesday, January 12, 2021, at 11:00 a.m. in Room C-1 of the Stratton Building, Springfield IL. Co-Chair Cunningham called the meeting to order and announced that the policy of the Committee is to allow only representatives of State agencies to testify orally on any rule under consideration at Committee meetings. Other persons are encouraged to submit their comments to the JCAR office in writing.

ATTENDANCE ROLL CALL

X Senator Bill Cunningham	X Representative Tom Demmer
X Senator John Curran	X Representative Mike Halpin
X Senator Kimberly Lightford	X Representative Frances Hurley
X Senator Tony Muñoz	X Representative Steven Reick
X Senator Sue Rezin	X Representative André Thapedi
X Senator Paul Schimpf	X Representative Keith Wheeler

APPROVAL OF THE MINUTES OF THE DECEMBER 15, 2020 MEETING

Rep. Reick moved, seconded by Sen. Rezin, that the minutes of the December 15, 2020 meeting be approved. The motion passed unanimously (11-0-0).

CONSIDERATION OF OTHER RULEMAKINGS AND ISSUES

Department of Financial and Professional Regulation – Illinois Professional Land Surveyor Act of 1989 (68 Ill. Adm. Code 1270; 44 Ill. Reg. 16065)

Rep. Wheeler moved that JCAR, with the concurrence of DFPR, extend the Second Notice period for this rulemaking for an additional 45 days. The motion passed unanimously (12-0-0).

Department of Public Health – Control of Communicable Diseases Code (Emergency) (77 Ill. Adm. Code 690; 45 Ill. Reg. 987)

Sen. Schimpf: When DPH last took up the issue of mask requirements it was the occasion for lengthy debate, and this version of the rules has improved on the original. That does not, however, change the underlying fact that the proponents of the rule the last time around justified using an emergency rule rather than passing a statute by saying it was too difficult and too dangerous to bring the General Assembly back into session to make the necessary changes. Mask

requirements are often compared to seatbelt requirements, but it's worth noting that we are talking about seatbelt laws, not seatbelt administrative orders. Saying that it is too difficult to convene the General Assembly is not a valid reason when the General Assembly is already in session. JCAR needs to protect the prerogatives of the General Assembly; the legislature makes the laws and the executive branch enforces them.

Ann Spillane, General Counsel for the Governor's Office, and Joanne Olson, DPH Deputy Chief of Staff, represented DPH. Rep. Thapedi asked why legislation was not filed during the last few days of the 101st General Assembly.

Ms. Spillane: Legislation is permanent whereas an emergency rule only lasts for 5 months. That allows the administration to revisit this question once vaccines have been rolled out and the science is clearer about whether masks will still be needed once a significant portion of the population has been vaccinated. In early June, when this rule expires, the legislature is not likely to be in session. With everything in flux, the administration felt this was the better course of action.

Rep. Thapedi: Would it be fair to say that the legislative route would be far too permanent and the emergency rule process gives you more flexibility to adjust course based on the vaccine and new variants of COVID-19?

Ms. Spillane: That is correct. And we will come back to you in 5 months to have that discussion. My sense after we discussed this in August was that the legislature was unwilling to do anything permanent but was open to temporary emergency rules.

Sen. Schimpf moved, seconded by Rep. Reick, that JCAR object to and suspend this emergency rule because the agency has adopted enforcement measures that target specific segments of Illinois business. Existing statute (Section 2 of the Department of Public Health Act [20 ILCS 2305]) and rule (77 Ill. Adm. Code 690.Subpart I) provide procedures by which DPH can address public health emergencies, and the process it must follow in doing so. Those policies should be changed, if necessary, by the General Assembly, not an administrative agency. JCAR finds that adoption of this emergency rule poses a threat to the public interest.

SUSPENSION ROLL CALL

N	Senator Bill Cunningham	Y	Representative Tom Demmer
Y	Senator John Curran	N	Representative Mike Halpin
N	Senator Kimberly Lightford	N	Representative Frances Hurley
N	Senator Tony Muñoz	Y	Representative Steven Reick
Y	Senator Sue Rezin	P	Representative André Thapedi
Y	Senator Paul Schimpf	Y	Representative Keith Wheeler

The motion failed 6-5-1.

AGENCY RESPONSE

Community College Board – Administration of the Illinois Public Community College Act (23 Ill. Adm. Code 1501; 44 Ill. Reg. 10855)

Due to the appropriateness of the agency's response, no further action was taken.

CONSIDERATION OF OTHER RULEMAKINGS AND ISSUES

Educational Labor Relations Board – General Procedures (80 Ill. Adm. Code 1100; 44 Ill. Reg. 17536)

Sen. Muñoz moved, seconded by Sen. Schimpf, that JCAR object to the Illinois Educational Labor Relations Board's rulemaking titled General Procedures (80 Ill. Adm. Code 1100; 44 Ill. Reg. 17536) because it allows service of documents by email when that is not one of the three acceptable methods for service specified in Section 5(h) of the Illinois Educational Labor Relations Act [115 ILCS 5]. The motion passed unanimously (12-0-0).

CERTIFICATION OF NO OBJECTION

Co-Chair Wheeler moved, seconded by Rep. Reick, that the Committee inform the agencies to whose rulemakings the Committee has not voted an Objection or Extension, or did not remove from the No Objection List, that the Committee considered their respective rulemakings at the monthly meeting and, based upon the Agreements for modification of the rulemaking made by the agency, no Objections will be issued. The motion passed unanimously (12-0-0).

OTHER BUSINESS

Co-Chair Cunningham: Before we close the meeting I'd like to bring something to the attention of those of you following our meeting today. Today is the last meeting of JCAR for Vicki Thomas. I think it is not an exaggeration to say that Vicki is JCAR. She is the personification of this institution and has been for a number of years. It is very difficult, I think, for any legislator to imagine JCAR without Vicki. She has been here through most of the history of the agency. I can tell you I have worked in government service for 30 years now. I have rarely met a person who combines the level of professionalism, expertise and an ability to work through problems and get people to agree with each other the way that Vicki does. She has done a tremendous amount of service to this State. She has done it without recognition because that's the way Vicki operates. She's not doing it for the glory; she's doing it because she cares about her job, and she has been an outstanding steward for the people of Illinois for many years, and JCAR and indeed the institution of the General Assembly is not going to be the same place without her. So I want to say on behalf of myself and the entire committee, Vicki, thank you so much. We really hope you enjoy your retirement. I also need to say the last 10 months have been a 10 months like JCAR has never had because of emergency rules related to the pandemic. I told Vicki that might be a good thing; she'll maybe miss the job a little less because of all the hard work she's had the last 10 months, but we would not have gotten through this without her leadership and she will very much be missed.

Co-Chair Wheeler: Let me just add to my esteemed co-chair's comments. When I first got appointed to JCAR I didn't know what JCAR even was. As a freshman legislator it was something that was brand-new to me. The path into JCAR came with Vicki's guidance. Ultimately I got

appointed as co-chair. It has become my favorite part of the legislative process and what we do in Springfield. I believe this is the most effective committee that I get to serve on. It is the most professionally run staff with her leadership that I get to deal with, and we get to deal with great staff across the board. I love the passion that the people who serve in JCAR have for what they're doing and how to get it right. And then there's the whole collaborative nature that Sen. Cunningham alluded to that I think is one of the most rewarding parts of the process that I know of personally to be a part of. And a lot of that is because of the way that Vicki handles things and brings people in in a way that I think is just totally effective and is a great service to the entire General Assembly. So thank you so much; don't go too far away. We're so grateful for what you've done for us, so thank you.

Co-Chair Cunningham: I should point out as another housekeeping matter that Kim Schultz will be taking over as our new JCAR Director next month. We are certainly looking forward to working with her. As we alluded to, she has very big shoes to fill but we are very confident in her ability to do so.

ANNOUNCEMENT OF FEBRUARY MEETING DATE

Co-Chair Cunningham announced that the next JCAR meeting is scheduled for Tuesday, February 16, 2021, at 11:00 a.m. in Room C-1 of the Stratton Building, Springfield IL.

ADJOURNMENT

Sen. Rezin moved, seconded by Munoz, that the meeting stand adjourned. The motion passed unanimously (12-0-0).